

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

IN RE: COOK MEDICAL, INC, IVC FILTERS
MARKETING, SALES PRACTICES AND
PRODUCTS LIABILITY LITIGATION

Case No. 1:14-ml-2570-RLY-TAB
MDL No. 2570

This Document Relates to Plaintiff(s)

ELVA GARCIA, as personal representative of the
ESTATE OF RICHARD GARCIA, deceased

Civil Case # 1:20-cv-00225

FIRST AMENDED SHORT FORM COMPLAINT

COMES NOW the Plaintiff(s) named below, and for Complaint against the Defendants named below, incorporate The Master Complaint in MDL No. 2570 by reference (Document 213). Plaintiff(s) further show the court as follows:

1. Plaintiff/Deceased Party:

Richard W. Garcia

2. Spousal Plaintiff/Deceased Party's spouse or other party making loss of consortium claim:

N/A

3. Other Plaintiff and capacity (i.e., administrator, executor, guardian, conservator):

Elva Garcia, as personal representative of the Estate of Richard Garcia, deceased.

4. Plaintiff's/Deceased Party's state of residence at the time of implant:

CA

5. Plaintiff's/Deceased Party's state of residence at the time of injury:

AR

6. Plaintiff's/Deceased Party's current state of residence:

AR

7. District Court and Division in which venue would be proper absent direct filing:

Arkansas Western District Court - Fayetteville, AR; California Southern District Court - San Diego, CA

8. Defendants (Check Defendants against whom Complaint is made):



Cook Incorporated



Cook Medical LLC



William Cook Europe ApS

9. Basis of Jurisdiction:



Diversity of Citizenship



Other: _____

- a. Paragraphs in Master Complaint upon which venue and jurisdiction lie:

Venue: Paragraph 27

Subject Matter Jurisdiction: Paragraph 23

Personal Jurisdiction: Paragraphs 24 and 26

- b. Other allegations of jurisdiction and venue:
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-
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10. Defendants' Inferior Vena Cava Filter(s) about which Plaintiff(s) is making a claim

(Check applicable Inferior Vena Cava Filters):

- ☐ Günther Tulip® Vena Cava Filter
- ☒ Cook Celect® Vena Cava Filter
- ☐ Gunther Tulip Mreye
- ☐ Cook Celect Platinum
- ☐ Other:

11. Date of Implantation as to each product:

11/24/2013

12. Hospital(s) where Plaintiff was implanted (including City and State):

Palomar Medical Center - Escondido, CA

13. Implanting Physician(s):

Dr. Michael Burke

14. Counts in the Master Complaint brought by Plaintiff(s):

- ☒ Count I: Strict Products Liability – Failure to Warn
- ☒ Count II: Strict Products Liability – Design Defect
- ☒ Count III: Negligence
- ☒ Count IV: Negligence Per Se

- ☒ Count V: Breach of Express Warranty
- ☒ Count VI: Breach of Implied Warranty
- ☒ Count VII: Violations of Applicable AR, CA (insert State)
Law Prohibiting Consumer Fraud and Unfair and Deceptive Trade
Practices
- ☐ Count VIII: Loss of Consortium
- ☐ Count IX: Wrongful Death
- ☒ Count X: Survival
- ☒ Count XI: Punitive Damages
- ☒ Other: see below (please state the facts supporting
this Count in the space, immediately below)
- ☒ Other: see below (please state the facts supporting
this Count in the space, immediately below)

Plaintiff incorporates all claims and facts alleged in Dkt. 18900

Defendants Expressly and Impliedly warranted that the Cook IVC Filter was a permanent lifetime implant

and downplayed the risks associated with migration, perforation, tilt, fracture, and other risk relied upon by

the Plaintiff to his detriment.

15. Attorney for Plaintiff(s):

Basil E. Adham, Johnson Law Group

16. Address and bar information for Attorney for Plaintiff(s):

Basil E. Adham (TX Bar No. 24081742)

Johnson Law Group, 2925 Richmond Ave., Suite 1700

Houston, Texas 77098

Respectfully submitted,

/s/ Basil E. Adham

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